IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2128 OF 2005

Tariq Mubarak Ali Shaikh ... Applicant

versus

The State of Maharashtra ... Respondent

...

Mr.A.R. Khan, for the Applicant.

Mr.A.S. Gadkari, A.P.P., for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

6th April 2005

P.C.:

. Learned Counsel submits that the view expressed by this Court in respect of compliance of section 50 of the N.D.P.S. Act is contrary to the settled legal position stated by the Apex Court in the decision reported in (2000) 10 S.C.C. 222 in the case of K. Mohanan v. State of Kerala. In other words, the Applicant is seeking review of the opinion expressed by me

while rejecting the first bail application. That cannot be a ground for entertaining second bail application.

. Learned Counsel then submits that contention regarding infraction of section 57 of the Act has not been considered on the earlier occasion. Even so, it is agreed by the learned Counsel that this ground cannot be stated to be changed circumstance, which has become available to the Applicant after rejection of the first bail application. If it is so, it is not possible for this Court to entertain second bail application on the said argument. Hence, this application is rejected.

. It is made clear that the trial Court shall examine the plea regarding infraction of section 50 of the Act on its own merits uninfluenced by the observations made by this Court in the earlier order dated 26th October 2004.

. It is lastly contended that inspite of direction given by this Court in order dated 26th

October 2004 to dispose of the trial expeditiously, the trial has not progressed even an inch thereafter. It is stated that the post of Special Judge to try N.D.P.S. cases is lying vacant for sufficiently long time. Similar grievance was made in respect of Special Judges at Mumbai in Criminal Applications Nos.51 and 52 of 2005. In my opinion, therefore, it is necessary to invite information regarding the number of matters pending for trial under the category of N.D.P.S. Act before the Court at Pune on the lines on which information was sought from the Sessions Court of Greater Mumbai. The Registrar (Judicial) is directed to take necessary steps to collate that information and place it before the Court for passing appropriate directions, if required.

. Post this matter preemptorily on 15th April 2005. Matter be placed under the caption "Directions", as I have already rejected the prayer for bail on merits for the reasons already recorded above.

(A.M.KHANWILKAR,J.)